

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

AMERICAN CIVIL LIBERTIES UNION, MARK  
AMERIKA of ALT-X, ART ON THE NET,  
FEMINIST.COM, FULL CIRCLE BOOKS,  
OBGYN.NET, SANTA FE ONLINE, SEXUAL  
HEALTH INSTITUTE, STOP PRISONER RAPE,  
JEFF WALSH of OASIS MAGAZINE,  
AMERICAN BOOKSELLERS FOUNDATION  
FOR FREE EXPRESSION, ASSOCIATION OF  
AMERICAN PUBLISHERS, INC., ELECTRONIC  
FRONTIER FOUNDATION, FREEDOM TO  
READ FOUNDATION, INC., INTERNATIONAL  
PERIODICAL DISTRIBUTORS ASSOCIATION,  
NEW MEXICO LIBRARY ASSOCIATION, PEN  
AMERICAN CENTER, PERIODICAL AND  
BOOK ASSOCIATION OF AMERICA,  
PUBLISHERS MARKETING ASSOCIATION,  
and RECORDING INDUSTRY ASSOCIATION  
OF AMERICA,

Plaintiffs,

vs.

No. CIV 98-474 LH/DJS

GARY JOHNSON, in his official capacity as  
Governor of the State of New Mexico, and TOM  
UDALL, in his official capacity as Attorney General  
of the State of New Mexico,

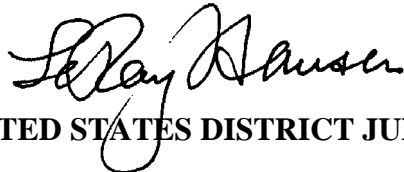
Defendants.

**ORDER**

**THIS MATTER** comes before the Court on Defendant's Motion to Amend Findings of Fact and Conclusions of Law, and Order Granting Preliminary Injunction (Docket No. 39), filed July 8, 1998. The Court, having considered the pleadings, and otherwise being fully advised, finds that the motion is not well taken and will be **denied as moot**.

Defendants seek to have this Court reconsider its order requiring that the Defendants provide a copy of the Court's Preliminary Injunction and its Findings of Fact and Conclusions of Law to each of the district attorneys of the State of New Mexico and its conclusion that the district attorneys are in "active concert" with the Defendants. *See* FED. R. CIV. P. 65(d). The Court finds that, as the Defendants have complied with the order's notice requirement, the motion is moot in so far as it seeks to redact this provision. The Court finds that the Defendant's request to find that the district attorneys are not in active concert with the Defendants is premature, as there is nothing before the Court to indicate that any district attorney wishes to assert that he or she is not bound by the preliminary injunction. Moreover, the Court doubts that these Defendants have standing to raise such a claim on behalf of a district attorney—unless they are in fact, in active concert as described in Rule 65(d). Finally, the Court finds that as the Defendants have filed a notice of appeal—presumably pursuant to 28 U.S.C. § 1292(a)—their request for certification is not only unnecessary, it is moot.

**IT IS, THEREFORE, ORDERED** that the Defendant's Motion to Amend Findings of Fact and Conclusions of Law, and Order Granting Preliminary Injunction (Docket No. 10), filed May 28, 1998, is **denied as moot**.

  
UNITED STATES DISTRICT JUDGE